

REMARKS

By this Amendment, claims 4 and 6 are amended. Support for the amendments to claims 4 and 6 come from the specification, as originally filed, at page 4, last full paragraph, for example. Accordingly, no new matter is added. Currently, claims 4-6 are pending in this application.

I. *Allowable Subject Matter*

Applicant thanks the Office for stating that claim 5 is allowable. In view of the changes made to claims 4 and 6 by this Amendment, Applicant submits that these claims are patentable as well. Therefore, Applicant respectfully requests that the Office reconsider the outstanding rejections of claims 4 and 6, withdraw them, and permit this application to pass to issue.

II. *Double Patenting*

The Office provisionally rejects claims 4 and 6 under the judicially created doctrine of non-obviousness-type double patenting over claims 1-4 of co-pending Application No. 09/913,284. (Office Action at pages 2-3.) In making the rejection, the Office asserts that the method claimed in the co-pending application is generic to the methods claimed in present claims 4 and 6, and that there is no reason why the subject matter of present claims 4 and 6 could not be presented in the co-pending application. Applicant respectfully disagrees.

Present claims 4 and 6 recite methods of treating voiding dysfunction associated with neurogenic bladder. The methods comprise administering tamsulosin or a pharmaceutically acceptable salt to a patient with neurogenic bladder. Treatment of patients with neurogenic

bladder is not recited in the claims of co-pending Application No. 09/913,284. Furthermore, it is not encompassed by the claims of the co-pending application. More specifically, the claims of the co-pending application recite methods of treating a symptom of urinary disturbance due to a functional obstruction of the lower urinary tract **without involving any apparent organic disturbance or neurological abnormality**. Neurogenic bladder is described in the co-pending application as a urinary disturbance due to disorder of nerves that control the operation of the urethra and bladder. (See Application No. 09/913,284 at page 2, last paragraph.) A similar description is provided in the present specification, at page 2, second full paragraph, for example. Because the claims of the co-pending application are directed to methods of treating a symptom of urinary disturbance that does not involve any apparent neurological abnormality, the methods of the claims of co-pending Application No. 09/913,284 are not generic to present claims 4 and 6. Likewise, because the invention disclosed in co-pending Application No. 09/913,284 is not directed to methods of treating voiding dysfunction associated with neurogenic bladder, the subject matter of present claims 4 and 6 could not be presented in the co-pending application.

For at least these reasons, Applicant respectfully submits that the double patenting rejection is improper. Accordingly, Applicant respectfully requests that the Office reconsider and withdraw the rejection of claims 4 and 6 under the judicially created doctrine of non-obviousness-type double patenting over the claims of co-pending Application No. 09/913,284.

III. *Rejections Under 35 U.S.C. § 112, second paragraph*

The Office rejects claims 4 and 6 under 35 U.S.C. § 112, second paragraph, as indefinite. (Office Action at pages 3-4.) Specifically, the Office asserts that the phrase "associated with" is

unclear, and that the claims do not recite that the patient has neurogenic bladder. The Office suggests that Applicant amend claims 4 and 6 to recite administration "to a patient with neurogenic bladder" to address the second issue raised.

With regard to the second point raised by the Office, Applicant has amended claims 4 and 6 to include the language suggested by the Office. Applicant submits that the amendment to the claims does not alter the scope or subject matter of the claims because the claims, prior to amending, inherently included the subject matter that has been added. That is, because one cannot treat a patient showing voiding dysfunction associated with neurogenic bladder unless that patient has neurogenic bladder, the phrase "with neurogenic bladder" was implied, and thus inherently present, in claims 4 and 6, prior to amending herein.

With regard to the first point raised by the Office, Applicant submits that "associated with" is a term of art well known to those of skill in the medical profession. Thus, use of this term in the claims does not render them vague or indefinite. Regardless of this fact, by this Amendment, claims 4 and 6 have been amended to recite administration to a patient "with neurogenic bladder". Accordingly, the association between the recited voiding dysfunction and neurogenic bladder is now specifically recited.

In view of the amendments to claims 4 and 6, and the discussion above, Applicant respectfully submits that the present claims satisfy the requirements of 35 U.S.C. § 112, second paragraph. Therefore, Applicant respectfully requests that the Office reconsider and withdraw the rejection of claims 4 and 6 under 35 U.S.C. § 112, second paragraph.

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IV. *Conclusion*

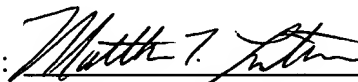
Applicant respectfully submits that this application is in condition for allowance.

Therefore, Applicant respectfully requests that the Office reconsider and withdraw the outstanding rejections, and permit this application to issue as a U.S. patent in due course. If the Office believes anything further is necessary in order to place this application in condition for allowance, Applicant requests that the undersigned representative be contacted at the telephone number or e-mail address listed below to discuss the remaining issues.

Please grant any Extension of Time required to enter this Amendment that has not already been requested, and charge any additional required fee that is not attached to our Deposit Account No. 06-0916.

Respectfully submitted,

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